

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 73, As Amended

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO PROSECUTING ATTORNEYS; AMENDING SECTION 31-2606, IDAHO CODE, TO PROHIBIT DIVERSION OF PUBLIC MONEYS IN SETTLING PROSECUTIONS, TO UPDATE LANGUAGE, TO PROVIDE FOR PENALTIES AND TO PROVIDE FOR EXCEPTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 31-2606, Idaho Code, be, and the same is hereby amended to read as follows:

31-2606. PROHIBITIONS. (1) ~~No Every prosecuting attorney must receive any fee or reward for or on behalf of any prosecutor or other individual, for services in any prosecution, or business to which it is his official duty to attend or discharge; nor be concerned who asks for or receives any emolument, gratuity or reward, or any promise thereof, except such as may be authorized by law, for doing any official act, is guilty of a misdemeanor. The provisions of this section shall in no way limit the application of section 18-1309, Idaho Code, or any other applicable provisions of law.~~

(2) ~~No prosecuting attorney shall knowingly act as attorney or counsel for either any party other than for the state, people or county, in any civil action depending upon arising out of the same state of facts; upon which any pending or unresolved criminal prosecution commenced but not determined depends; and a~~ No law partner of any ~~county~~ prosecuting attorney ~~must~~ shall knowingly be engaged in the defense of any suit, action or proceeding, in which said prosecuting attorney appears on behalf of the people, state or county. Violation of this provision shall be a misdemeanor.

(3) No prosecuting attorney shall compromise or dismiss a prosecution, agree to a forfeiture of bond, or otherwise not prosecute a case by conditioning the same upon payment of moneys or other consideration of value in any manner other than payment to the clerk of the district court for distribution provided for in section 19-4705, Idaho Code, or other applicable provisions of law. Diversion of such moneys or consideration in any other manner constitutes a misuse of public funds as prohibited in section 18-5701(1), Idaho Code. The provisions of this subsection shall not apply to payments of restitution as provided in law, or to payments for assessments, treatments, education classes, bad check recovery or other remedial programs.